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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review	)	CC Docket No. 94-1
for Local Exchange Carriers	)	
	)	
Low-Volume Long Distance Users	)	CC Docket No. <u>99-249</u>
	)	
Federal-State Joint Board On Universal	)	CC Docket No. 96-45
Service	)	

**COMMENTS OF THE  
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION**

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**COMMENTS OF THE**  
**COMPETITIVE TELECOMMUNICATIONS ASSOCIATION**

The Competitive Telecommunications Association ("CompTel"), by its attorneys, hereby comments on the *Notice of Proposed Rulemaking* ("NPRM") in the above-captioned proceedings.<sup>1</sup> With approximately 350 members, CompTel is the principal national industry association representing the emerging class of "integrated communications providers" offering a varied mix of local, long distance, and information services. CompTel's member companies include the nation's leading providers of competitive services, and they span the full range of entry strategies and options. It is CompTel's fundamental policy mandate to see that competitive opportunity is maximized for *all* its members, both today and in the future.

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<sup>1</sup> *Notice of Proposed Rulemaking*, FCC 99-235, rel. Sept. 15, 1999 ("NPRM").

## **Introduction and Summary**

The *NPRM* asks parties to comment on the access charge reform proposal submitted by the *ad hoc* Coalition for Affordable Long Distance Services (“CALLS”) on July 29, 1999. CALLS developed its proposal through private negotiations involving several ILECs and long distance carriers (AT&T, Bell Atlantic, BellSouth, GTE, SBC, and Sprint). The proposal is designed to be implemented over a five-year period beginning in January 2000, and would apply to the ILEC members of CALLS (assuming the FCC adopts the plan without modifications) plus any other price cap ILECs that voluntarily elect to participate. In essence, adopting the CALLS plan would (i) transfer revenues from per-minute switched access charges and the presubscribed interexchange carrier charge (“PICC”) to end-user charges which could be geographically deaveraged under certain conditions; (ii) create a portable “access universal service fund” that would be separate from other universal service programs and would “replace \$650 million of implicit support currently collected through interstate access charges;”<sup>2</sup> and (iii) reduce traffic-sensitive switched access rates on an annual basis until certain “target” levels are reached. As the Commission noted, CALLS views its proposal as “a comprehensive solution to the membership’s access charge, universal service, and price cap concerns.”<sup>3</sup>

CompTel believes that the CALLS proposal is a major step forward from the FCC’s current access charge regime, which has not succeeded in moving access charges to cost-based levels. It has been more than 15 years since the FCC first adopted cost-

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<sup>2</sup> *NPRM* at Appendix C at 2 (“CALLS Memorandum”).

<sup>3</sup> *NPRM* at ¶ 2.

based access charges as a fundamental objective of its access policies.<sup>4</sup> The basic approach to achieving cost-based rates – *i.e.*, eliminating subsidies in usage rates – has been the FCC’s objective from day one. The Commission noted:

“The driving force behind our decision to move toward flat changes is our commitment to promoting efficient use of the nationwide telecommunications network and our recognition that pricing reform is necessary to enable our society to maximize its efficient use of the telecommunications network and realize the benefits possible from increasing competition in the interexchange marketplace.”<sup>5</sup>

The need for a cost-based end point to the Commission’s access policies is more critical today than it was in 1983. The only real access “issue” has been not the goal of cost-based rates, but the transition to achieve that goal. The CALLS proposal offers a reasonable starting point to effecting that goal today.

However, it is essential that any rules the FCC adopts in response to the plan apply on a mandatory basis to all price cap ILECs. Further, the Commission should reject unequivocally the CALLS ultimatum that the FCC view the plan as a take-it-or-leave-it proposition. Rather, the FCC should adopt, modify and/or reject various aspects of the plan without regard to the CALLS members’ desires to have the plan treated as an integrated package.

On its merits, the CALLS plan is pro-consumer and pro-competitive because it would eliminate the PICC, reduce per-minute access rates, and recover a higher percentage of access revenues more efficiently through end-user charges. At the same time, the plan does not go nearly far enough because it would leave rates above cost and

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<sup>4</sup> *MTS and WATS Market Structure*, 93 F.C.C. 2d 241 (1983), *reconsideration*, *MTS and WATS Market Structure*, 97 F.C.C. 2d 682 (Memorandum Opinion and Order) (1983) (“*MTS/WATS Reconsideration Order*”).

<sup>5</sup> *MTS/WATS Reconsideration Order* at 686.

the transition period for rate reductions is too lengthy. The Commission should correct those flaws by requiring the rates to drop to cost-based levels, and to insist upon full compliance during a transition period lasting no longer than six months.

Further, the Commission should decline to establish a separate “fund” to recover additional revenues that the ILECs recover today through inflated access charges. That fund is a transparent mechanism for preserving the price cap ILECs’ pre-existing revenue stream in its entirety even though some portion of that revenue stream neither reflects underlying costs nor supports universal service. While CompTel strongly urges the Commission to correct these flaws in the CALLS plan, should the Commission decline to do so at this time, CompTel supports adopting CALLS’ restructuring proposal as a significant improvement over the current access charge regime.<sup>6</sup> Lastly, should the Commission establish a separate universal service fund along the lines proposed by CALLS, the FCC should make certain that the fund is supported only by ILEC subscribers, not by CLEC subscribers.

## **Discussion**

### **I. THE FCC’S STATUTORY MANDATE IS TO ADOPT RULES TO PROMOTE THE PUBLIC INTEREST, NOT THE NEGOTIATED PRIVATE INTERESTS OF SELF-SELECTED PARTIES**

The access charge, universal service, and price cap proceedings address complicated and interrelated matters that affect the rights and competing interests of many parties, and that have enormous significance for the future of telecommunications services and the telecommunications industry. Particularly given the FCC’s limited

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<sup>6</sup> Although CompTel believes the CALLS proposal is preferable to the current access charge regime, that support should not be interpreted to mean that

resources, it is beneficial when private parties (such as the members of CALLS) reach a consensus on possible solutions to these issues and present that consensus to the FCC for consideration. As a result, CompTel applauds the efforts of the CALLS members to negotiate a comprehensive access charge reform proposal.

At the same time, it is the FCC – not self-selected private parties – whom Congress has charged with advancing the pro-competitive, deregulatory national policies embodied in the Telecommunications Act of 1996,<sup>7</sup> and with taking the actions necessary to ensure the nationwide availability of high-quality telecommunications services at reasonable rates.<sup>8</sup> As such, the actions of the Commission in considering the CALLS proposal or any other privately-negotiated solution must be guided by the public interest and the Commission's overarching obligations under the Act, and cannot be constrained by any conditions or requirements imposed by CALLS or other parties advancing a particular proposal. Therefore, in deciding whether to accept, reject or modify the CALLS proposal, the FCC cannot take into account the desire of the CALLS members to have their plan treated on an all-or-nothing basis and applied on a mandatory basis only to those price cap ILECs who are CALLS members.

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CompTel supports each and every aspect of the CALLS plan (*e.g.*, geographic deaveraging of end-user charges).

<sup>7</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, *codified at* 47 U.S.C. § 151 *et seq.*

<sup>8</sup> *See* 47 U.S.C. § 151 (1997) (FCC shall execute and enforce the provisions of the Act “to make available...a rapid, efficient, Nation-wide, and world-wide wire and radio communications service with adequate facilities at reasonable charges”).

**A. The FCC should not and may not regard the CALLS proposal as a take-it-or-leave-it proposition.**

CALLS contends that if the Commission adopts its plan, the FCC should do so as an integrated package without modification because of “the complexity and interdependence of the various facets of the proposal.”<sup>9</sup> It would be unlawful for the Commission to accept that ultimatum. While it is legitimate for CALLS as a coalition to insist that each member endorse the plan in its entirety or not at all, the FCC’s implementation of its statutory mandate cannot be compromised by side-deals negotiated by private parties. The interdependence of the different parts of the proposal for CALLS members does not mean that the different parts of the plan are interdependent for the FCC or the general public.

In its supporting memorandum, the CALLS members state that its plan “represents a delicate balancing of competing policies.”<sup>10</sup> However, it is for the FCC, not CALLS, to balance the competing policies to determine what rules, if any, would promote the public interest. The Commission cannot delegate that fundamental statutory task to a handful of private parties. This is particularly true because the FCC is considering the CALLS proposal in the context of ongoing rulemaking proceedings on access charges, universal service, and price caps. Further, as private parties often do when negotiating agreements, the CALLS members appear on several occasions to have adopted a “split the difference” approach to disputed issues -- *e.g.*, establishing target switched access rates that are closer to, but still above, cost-based levels. However well-suited that approach may be for resolving disputes among private parties, it is rarely an

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<sup>9</sup> *NPRM* at Appendix A at 1 (“CALLS Proposal Text”).

<sup>10</sup> CALLS Memorandum at fn. 18.

appropriate or wise method for the FCC to resolve telecommunications policy issues.

The Act does not permit the Commission to adopt rules and policies that the FCC believes are detrimental to the interests of U.S. consumers simply because those rules are part of a “package deal” negotiated by a few interested parties. As a result, the Commission should adopt, modify or reject portions of the CALLS proposal as necessary to promote the public interest without taking into account the preference of CALLS members that the plan be adopted or rejected in its entirety.

**B. Any rules the FCC adopts in response to the CALLS proposal should apply on a mandatory basis to all price cap ILECs.**

CALLS has proposed that its plan should be voluntary for price cap ILECs who did not join the coalition and, should the FCC modify the plan in any way, for the price cap ILECs who are CALLS members.<sup>11</sup> CompTel strongly opposes CALLS’ position. Any rules that the FCC adopts to promote the public interest should apply on a mandatory basis to all price cap ILECs, not merely those who elect to “opt into” the rules. If the FCC determines that all or part of the CALLS proposal serves the goals and objectives of the Act, then the Commission should adopt rules and insist that all price cap ILECs comply with those rules.

Because this is a rulemaking proceeding and not a negotiated settlement, individual price cap ILECs should not be able to escape complying with the rules simply because they determine that their own financial interests are best served by staying out of the plan to retain higher access charge levels. Nor can the FCC justify applying rules adopted in this phase of the proceedings to CALLS members but not to other price cap

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<sup>11</sup> CALLS Memorandum at 1 and fn. 18.

ILECs on the basis of some other putative “distinction” between these two groups of carriers. From a legal and policy perspective, the price cap ILECs that joined CALLS cannot be distinguished from those price cap ILECs that did not. The Commission has not previously implemented major access reforms on an opt-in basis,<sup>12</sup> and CALLS does not provide any legitimate basis for distinguishing between the price cap ILECs who did, and those who did not, join its coalition.

Further, maintaining two access charge regimes for two different groups of price cap ILECs would create new burdens for the FCC and the industry, as well as divert scarce resources from other proceedings. The FCC already administers two access charge regimes for ILECs – price caps for the larger ILECs, and rate of return regulation for other ILECs. Making compliance with the CALLS plan voluntary for some or all price cap ILECs would needlessly create a third access charge regime for the FCC to administer and implement.

In addition, two different access charge regimes for price cap ILECs would be unduly burdensome to providers of long distance services. If the FCC adopts rules that apply to some but not all price cap ILECs, the result will be significant variations in rate structures (*i.e.*, retaining or eliminating the PICC) and in per-minute interstate access rates from one ILEC to another and from one region of the country to another. These variations will make it more difficult for long distance carriers to construct retail service offerings with postalized rates – plans which the public clearly prefers and benefits from.

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<sup>12</sup> The FCC has made discrete, limited portions of its previous access reform decisions “voluntary” for the ILECs only after making a specific finding that multiple approaches to a particular issue equally promote the public interest. *See Access Charge Reform, First Report and Order*, 12 FCC Rcd 15982, 16090 (1997) (“*Access Reform First Report and Order*”) (ILECs allowed to implement unbundled signalling rate structures at their discretion).

Further, given the requirement in Section 254(g) that long distance carriers offer the same rates from one state to the next, such variations could prevent carriers from offering the lowest possible retail rates to consumers. In the extreme, some carriers would have an incentive to reduce rates only to the level that will permit them to earn adequate margins in the states with the highest per-minute access costs (the “highest common denominator” effect). By making its rules mandatory for all price cap ILECs, the FCC would reduce ILEC-by-ILEC variations in rate structures and per-minute rate levels, thereby providing an incentive for long distance carriers to offer lower rates and ensure that consumers receive the full benefit of the FCC’s new rules.

Lastly, adopting rules that apply on a mandatory basis to some price cap ILECs would create a disincentive for other price cap ILECs to opt into the plan. A key component of the CALLS proposal is a decrease in the per-minute access charges paid by long distance carriers. Because the long distance market is competitive, the lower per-minute access rates will result in lower long distance rates to consumers and thereby stimulate demand. As domestic long distance calling increases, those price cap ILECs who retain high per-minute access charges would reap a windfall. By opting out of the plan, those price cap ILECs would be able to obtain significant benefits from the FCC’s new rules without having to lower their above-cost per-minute access rates. The result is that those ILECs would have a strong incentive not to opt into the plan, and their above-cost per-minute access rates would act as a brake on the lower long distance rates that the FCC could achieve by adopting some version of the CALLS plan. In short, the FCC cannot achieve the desired benefits for U.S. consumers if the new access charge regime is voluntary for any price cap ILECs.

**II. THE FCC SHOULD ADOPT THE CALLS PLAN COMPARED TO THE CURRENT ACCESS CHARGE REGIME, AND MAKE FURTHER CHANGES TO ENSURE THAT ACCESS RATES ARE COST-BASED WHILE PREVENTING THE ILECS FROM RETAINING EXCESS REVENUES THAT DO NOT PROMOTE UNIVERSAL SERVICE.**

With the understanding that the CALLS plan would apply at a minimum to all price cap ILECs, CompTel believes that the plan is preferable to the current access charge regime. While the CALLS plan has flaws that can and should be corrected – most notably, target switched access rates that are above cost-based levels and a bogus “universal service” fund of \$650 million per year – those same flaws, as a practical matter, are even greater in the FCC’s current regime. Current access rates are well above costs, thereby permitting price cap ILECs to recover excess revenues far beyond what is necessary for legitimate universal service purposes. While CompTel strongly urges the FCC to correct those problems in response to the CALLS petition, even should the FCC decide to refrain from doing so, there is substantial merit in the CALLS proposal to restructure access charges by recovering more revenues through end-user charges than through per-minute access charges and PICCs imposed on long distance carriers.

**A. The FCC should adopt the CALLS proposal to recover more revenues through end-user charges than from per-minute access charges and PICCs imposed on long distance carriers.**

It has been clear for some time now that the market-based approach adopted by the FCC in its *Access Reform First Report and Order* to bring access charges to cost-based levels is not working and that access rates are still well in excess of economic costs. The FCC should adopt the restructuring proposed by CALLS because it would bring per-minute access rates paid by long distance carriers closer to cost-based levels

while recovering a higher percentage of access revenues more efficiently through end-user charges.

The proposed restructuring would result in significant benefits for U.S. consumers. Long distance rates have been declining rapidly, and consumers have a wide array of pricing options and service packages from which to choose. One of CompTel's member companies offers per-minute rates as low as \$.03/minute.<sup>13</sup> Given the highly competitive nature of the long distance market, the access charge rate reductions generated by the CALLS proposal would generate further reductions in long distance retail rates. Also, further access charge reductions likely will facilitate the emergence of new and innovative long distance pricing plans. As per-minute access charges become an increasingly smaller component of long distance carriers' cost structure, they will have even stronger incentives to develop plans that rely less, or even not at all, upon per-minute rate schedules. However, as long as per-minute access charges remain well in excess of costs at their current levels, the incentives for long distance carriers to offer further rate reductions or innovative pricing plans are repressed.

Similarly, the restructuring proposed by CALLS will promote competition broadly in the telecommunications industry. With access charges closer to cost, there will be smaller differences between the costs of terminating local and long distance calls, and between access charges and unbundled network elements ("UNEs"). Under the current regime, ILECs charge different amounts for providing the same functionality depending upon whether the traffic is local or long distance, and whether the

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<sup>13</sup> See Comments of Excel Communications, Inc., CC Docket No. 99-249, filed Sept. 22, 1999, at 5 (interstate rate of \$.03/minute from 7 p.m. to 7 a.m., and \$.10/minute all other times, with monthly recurring charge of \$5.95).

functionality is purchased as an access service or a UNE. These artificial cost differences are relics of outmoded regulatory regimes and serve only to reduce the overall efficiency of the telecommunications industry to the detriment of consumers. The restructuring proposed by CALLS would move the industry closer to the ideal of “a minute is a minute” pricing, thereby providing the proper economic incentives for carriers to invest in telecommunications facilities and services.<sup>14</sup> Given the FCC’s emphasis on the need to promote efficient investment and innovation in the industry,<sup>15</sup> it is imperative that the FCC begin to move interstate access rates to cost-based levels now.

**B. The FCC should prescribe cost-based rates, and such rates should be phased in immediately rather than over a period of years.**

Although the CALLS restructuring proposal is a major step in the right direction, it is not enough. Whereas the CALLS proposal would eliminate the PICC and reduce per-minute access charges closer to cost-based levels over a period of years, the FCC should require price cap ILECs to reduce access rates to cost-based levels immediately. This is not only the policy that best promotes the public interest, it is required by the

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<sup>14</sup> Just as the Commission has always identified cost-based access charges as a fundamental policy objective, the Commission also for years has looked toward the removal of artificial and arbitrary distinctions between the same functionalities provided for different calls through “a minute is a minute” pricing. See, e.g., *MTS and WATS Market Structure*, 93 FCC 2d 241, 410 (1983) (Separate Statement of Comm’r Sharp) (“[i]n the long run, it appears neither reasonable nor practical to maintain differences in rates for the same service depending on the use to which local exchange service is put i.e., for interstate and foreign communication, intrastate toll communication or local exchange communication”).

<sup>15</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 99-238, rel. Nov. 5, 1999, at ¶¶ 1-15 (Third Report and Order and Fourth Further Notice of Proposed Rulemaking); *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, FCC 99-330, rel. Nov. 9, 1999, at ¶ 1.

Telecommunications Act of 1996. As the U.S. Court of Appeals for the Fifth Circuit recently held, “the plain language of § 254(e) does not permit the FCC to maintain *any* implicit subsidies for universal service support.”<sup>16</sup> It is now nearly four years after Congress adopted Section 254(e), and therefore incumbent upon the FCC to ensure cost-based access rates immediately.

There is no doubt that the CALLS proposal would leave subsidies in interstate access charges. The proposed target levels -- \$.0055/minute for RBOCs and GTE, and \$.0065/minute for all other price cap ILECs – are still above the ILECs’ economic costs of providing switched access. Evidence in support of that conclusion can be found in state-approved or established interconnection and UNE rates, which demonstrate that the ILECs’ forward-looking costs of providing the functions that comprise switched access are generally below one-half of one cent (\$.005) per minute. If the Commission adopts the CALLS proposal, the target access charge levels cannot be allowed to function as a “floor” on access charge reductions. Rather, the Commission should prescribe cost-based access rates by reference to the rates for equivalent UNEs or termination services that have been determined by each state commission in the ILEC’s territories.

Similarly, the FCC should expedite the timetable for achieving cost-based access rates. There is no longer any possible justification for giving the ILECs still more time to reduce their rates to cost-based levels and remove any reliance they may once have had upon their non-cost based revenue streams. The ILECs have been on notice for many years that current access charge levels are unsustainably high, and that the objective of the Commission and the statute is to achieve access charge levels that reflect underlying

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<sup>16</sup> *Texas Off. of Pub. Util. Counsel v. FCC*, 183 F.2d 393, 425 (5<sup>th</sup> Cir. 1999) (emphasis in original).

economic costs.<sup>17</sup> Particularly given the progress made by many state agencies in establishing cost-based rates for interconnection and UNEs, the Commission should not delay in moving interstate access charges to cost-based levels immediately. Therefore, in place of the CALLS proposal to move slowly towards the target rates over a period of years, CompTel proposes that the Commission establish an expeditious timetable of no more than six months for the price cap ILECs to reduce their per-minute access charges to cost-based levels.

**C. The FCC should not permit ILECs to recover revenues that are not related to universal service through a separate \$650 million fund**

The CALLS proposal would establish a portable \$650 million “fund” for the ostensible purpose of replacing access revenues that allegedly support universal service. The FCC should not and may not establish such a fund. CALLS fails to present any evidence that the \$650 million is related in any way whatsoever to universal service. To the contrary, the FCC already has sought to implement Section 254 by conducting intensive, detailed, and lengthy proceedings to ensure that all universal service support is explicit.<sup>18</sup> Those proceedings will identify all funds that are properly needed for the

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<sup>17</sup> See, e.g., *Access Reform First Report and Order*, 12 FCC Rcd at 15994-15998; *Access Charge Reform, Notice of Proposed Rulemaking*, 11 FCC Rcd 21354, 21376, 21382 (1996).

<sup>18</sup> See, e.g., *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776 (1997), as corrected by *Federal-State Joint Board on Universal Service, Errata*, CC Docket No. 96-45, FCC 97-157 (re. June 4, 1997); *Federal-State Joint Board on Universal Service, Fifth Report and Order*, 13 FCC Rcd 21323 (1998) (platform order); *Federal-State Joint Board on Universal Service, Ninth Report and Order and Eighteenth Order on Reconsideration*, CC Docket No. 96-45, FCC 99-306 (rel. Nov. 2, 1999) (methodology order); *Federal-State Joint Board on Universal Service, Tenth Report and Order*, CC Docket No. 96-45, FCC 99-304 (rel. Nov. 2, 1999) (inputs order).

explicit support of universal service and establish the mechanisms necessary to obtain the funds and distribute them properly to local exchange carriers. If the Commission does its job properly, there is no need, and no lawful grounds, for a separate interstate fund of \$650 million (or any other amount) per year to support universal service.

It is time for the FCC to confront reality, which is that the ILECs have been receiving above-cost access charge revenues for years that have absolutely nothing to do with supporting universal service. The twin tasks of moving access charges closer to cost-based levels while establishing explicit universal service support mechanisms have resulted in exposing the substantial access revenues that the price cap ILECs currently receive from long distance carriers that neither reflect access costs nor support universal service.<sup>19</sup> The obvious purpose of the \$650 million annual fund proposed by CALLS is not to promote universal service, or to replace revenues that were used in the past for that purpose, but to serve as a slush fund to ensure that any access charge reform is revenue neutral for the price cap ILECs and their shareholders. However, the preservation of a pre-existing revenue stream for a regulated entity is an impermissible objective under the statute and case law.<sup>20</sup> Establishing the proposed fund would impose unreasonable costs on consumers, and enable the ILECs to undermine competition by cross-subsidizing selected affiliated ventures, in violation of Sections 201(b) and 202(a) of the Act. Therefore, the Commission should refrain from adopting the \$650 million fund proposed by CALLS.

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<sup>19</sup> Although the rate of return ILECs are subject to a different regulatory regime, CompTel submits that their interstate access charges are no less inflated above costs than those of the price cap ILECs.

<sup>20</sup> *E.g., Competitive Telecommunications Assn. v. FCC*, 87 F.3d 522, 530 (D.C. Cir. 1996) (the FCC's goal is to promote competition, not protect competitors).

**D. If the Commission establishes a separate fund, such a fund should be recovered solely from the ILECs' end-user subscribers**

Should the Commission establish a separate fund along the lines proposed by CALLS, or otherwise adopt a mechanism designed to ensure that access charge reform is revenue neutral for the ILECs, the Commission should ensure that any such funds are recovered solely from the ILECs' end-user subscribers. It is not clear from the CALLS plan itself whether the proposed fund would be subsidized by both CLEC and ILEC customers. On the one hand, CALLS proposes that the so-called "USF rate element" should be recovered from "all end users."<sup>21</sup> On the other hand, the CALLS plan would permit the ILEC to choose to recover the amount "as a percentage of interstate retail revenues" and entitles the ILEC to combine the rate element with other rate elements for billing purposes.<sup>22</sup> Those prerogatives make sense only if the fund is being recovered solely from ILEC customers for whom the ILEC provides billing and collection for long distance services. Further, the CALLS plan nowhere addresses the complex procedures and rules that would be necessary if CLECs were to bill such amounts to their own end users and then remit such payments for distribution to eligible local exchange carriers. Therefore, it is far from clear whether the CALLS plan, as proposed, seeks to recover the \$650 million fund from CLEC customers as well as ILEC customers.

CompTel proposes that any "USF rate" or similar funding mechanism be recovered only from ILEC subscribers. It would be highly ironic if the very same plan

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<sup>21</sup> CALLS Proposal Text at Section 1.

<sup>22</sup> *Id.*

which increases efficiency by eliminating the PICC were to substitute a different type of PICC by requiring CLECs to bill these amounts to their subscribers. Further, it would be enormously (and needlessly) costly for CLECs to bill and collect these amounts, and such administrative costs inevitably would be passed through to their subscribers in the form of higher retail service rates or separate line-item charges. In addition, and perhaps most importantly, many CLEC subscribers do not use all or even any of the switched access services that today produce the \$650 million surplus. It would be highly inequitable, as well as a significant impediment to the development of local competition, were the FCC to adopt rules enabling the ILECs to maintain revenue neutrality by imposing a tax on the customers of CLECs who today are not substantial users of the ILECs' switched access services. Particularly given CALLS' inability to produce any evidence showing that the \$650 million supports universal service, there is no legal or policy basis to require CLEC customers to pay into a fund that is designed merely to ensure revenue neutrality for the ILECs.

## **Conclusion**


CompTel respectfully requests that the Commission take action as specified herein and in previous CompTel comments in these proceedings.

Respectfully Submitted,

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